# HEALTH FINANCE COMMISSION

***Legislative Services Agency***
***200 West Washington Street, Suite 301***
***Indianapolis, Indiana 46204-2789***
***Tel: (317) 233-0696 Fax: (317) 232-2554***

## MEETING MINUTES[1]

**Meeting Date:** October 29, 2007
**Meeting Time:** 1:00 P.M.
**Meeting Place:** State House, 200 W. Washington St., Senate Chamber
**Meeting City:** Indianapolis, Indiana
**Meeting Number:** 5

**Members Present:** Sen. Patricia Miller, Chairperson; Sen. Gary Dillon; Sen. Beverly Gard; Sen. Vaneta Becker; Sen. Connie Lawson; Sen. Ryan Mishler; Sen. Connie Sipes; Sen. Vi Simpson; Sen. Sue Errington; Rep. Charlie Brown, Vice-Chairperson; Rep. Peggy Welch; Rep. John Day; Rep. Phil Hoy; Rep. Scott Reske; Rep. Richard Dodge; Rep. David Frizzell; Rep. Don Lehe.

**Members Absent:** Sen. Marvin Riegsecker; Sen. Earline Rogers; Rep. Craig Fry; Rep. Carolene Mays; Rep. Timothy Brown; Rep. Suzanne Crouch.

The fifth meeting of the Health Finance Commission was called to order at 1:10 PM by Sen. Patricia Miller, Chairperson.

### Radiosurgery/Cyberknife Insurance Coverage

*Michael Hardacre, MD, Director of Radiosurgery, Cyberknife of Indianapolis*

Dr. Hardacre defined stereotactic radiosurgery, also called cyberknife, and discussed its clinical applications. (See Exhibit # 1.) He explained the conditions that radiosurgery is currently used for and how eligible patients are selected for the procedure. He also presented potential new uses for this technology. He stated that candidates for the procedure may be referred because

[1] Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of $0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is http://www.in.gov/legislative/. No fee is charged for viewing, downloading, or printing minutes from the Internet.

surgery is not an option and radiation therapy may be too debilitating. Radiosurgery is not an option for every patient; Dr. Hardacre explained it will never be a high-volume technology. He gave examples of patients that have been treated with the technology. Dr. Hardacre discussed the question of whether radiosurgery is experimental, an extension of radiation therapy, or a niche market of cancer treatment. The problem encountered by patients is that insurance carriers treat the procedure in widely varying manners with regard to coverage for payment.

Commission questions followed with regard to how the procedure works and how the cost of radiosurgery compares to radiation therapy or a surgical procedure and its resulting recovery. Dr. Hardacre was asked to describe the insurance appeal process that patients encounter. He responded that Medicare covers the procedures but that the private insurance carriers require an extensive internal review that often takes two months after the initial denial.

*Bernard Emkes, MD*

Dr. Emkes described the clinical nature of radiosurgery as highly specialized treatment for specialized patients. He commented that the practice of medicine is being limited by insurance companies. He said that insurance companies say they do not practice medicine; they make claims payment decisions. However, he added, when the payment decision is that they will not cover expensive, innovative treatment, the patient generally cannot pay for the recommended care without the insurance coverage. (See Exhibit # 2.) Dr. Emkes concluded by stating that major insurance companies require studies and criteria which probably will never be available for radiosurgery procedures because the procedures work - it would not be ethical to deny the procedure to a patient in order to prove its efficacy in a double-blind study.

Commission questions followed with regard to why this procedure would not prove to be more cost effective than the existing alternative treatments. Dr. Hardacre responded that the technology is very expensive and is changing rapidly requiring equipment updates.

*John Willey, Anthem Insurance*

Mr. Willey testified that two-thirds of individuals covered by health insurance have coverage regulated by the federal ERISA Act. Under these plans, the employer makes the policy decisions with regard to what is covered and what is not.

*Linda Barabee, Vice-President, Provider Relations, Anthem Insurance*

In response to a question regarding the state's coverage policy for its employees, Ms. Barrabee responded that the state uses the Anthem policy. Some of the procedures are covered; others are not. Ms. Barrabee stated that Anthem looks at the safety and efficacy of a procedure in determining coverage. She said that coverage decisions are not reviewed on the basis of cost but rather the efficacy of the treatment. She stated that the use of radiotherapy for the treatment of lung cancer is considered to be experimental at this time. In response to a question about how efficacy is determined for rare procedures, Ms. Barrabee responded that the efficacy review relies on peer review articles in various professional journals. When asked about insurance coverage determinations being equated to the practice of medicine, she stated that denial of coverage does not mean the patient cannot have the treatment - but they would have to pay for it.

After several questions regarding the reported lack of peer review articles for uncommon procedures, Dr. Hardacre commented that making a determination about when radiosurgery is a treatment alternative is a difficult decision that persons who are not radiosurgeons would not be in a position to understand. Dr. Emkes commented that there are many peer review articles and offered a list. Sen. Miller asked staff to distribute copies of the document to the

Commission members.

Commission members asked if an ERISA-regulated employer asked to have this technology covered, would Anthem offer to cover it? Additional questions involved whether the employer knows the policy decisions that they can make regarding the coverage that they purchase and how many ERISA contracts differ from the commercial policies offered by Anthem.

*Alfred Medjesky*

Mr. Medjesky introduced himself as a cancer patient referred for radiosurgery. Anthem, his insurance carrier, denied payment for the procedure because it is still considered to be experimental for the specific application he needs. He explained that radiosurgery appeared to be his best treatment option since he had been told that he probably would not survive the necessary surgical procedure. Another treatment option, extensive radiation therapy, would leave him physically unable to return to work. He commented that the radiosurgery option that was denied for his condition would have been performed on an outpatient basis and would have allowed him to go back to work.

Commission discussion followed with questions for Mr. Willey regarding how the cost of radiosurgery compared to surgical treatment and recovery or a radiation therapy regimen. Sen. Miller asked for a cost comparison of the treatment modalities. There was additional discussion regarding the appeal process available to patients. Rep. C. Brown asked how many appeals were subsequently approved by Anthem. Dr. Hardacre commented that some patients screen themselves out of the procedures due to a lack of willingness to fight the issue with the insurance company.

**PD 3297 - Coverage for Stereotactic Radiotherapy**

Sen. Miller gave an overview of PD 3297, which requires a state employee health plan, a health insurance policy, or a health maintenance organization contract to provide coverage for radiosurgery to the same extent that the procedure is covered under the federal Medicare program. (See Exhibit #3.) A motion was made and seconded for the Commission to approve the proposed draft.

The Commission voted 17-0 to recommend PD 3297.

**Methicillen-Resistant Staphylococcus Aureus (MRSA)**

*Judith Monroe, MD, State Health Commissioner*

Dr. Monroe reported that national statistics show there are 19,000 deaths annually attributable to MRSA, while there are 36,000 deaths due to influenza. She stated that the bacteria involved in the infections is common and generally not serious unless a patient is immunocompromised. She said that MRSA is attributable to the overuse of antibiotics and patients not taking the complete course of antibiotic therapy. Dr. Monroe added that community-acquired MRSA is not uncommon and has different risk factors than the more serious hospital-acquired infections. Persons at risk for community-acquired MRSA infections are generally young, involved in athletic programs, sharing towels or other personal items, or living in crowded conditions. Dr. Monroe stated that the best ways to avoid infections include hand washing, proper cleaning of surfaces and equipment, sanitizing linens, keeping personal items personal, and keeping wounds covered.

Dr. Monroe stated that outbreaks of MRSA are currently reportable to the Department of Health; there were a total of three outbreaks reported in 2003 and 2004. She also reported

statistics on staph infections for 2006. Dr. Monroe told the Commission that ISDH is using the current media attention to create a teachable moment. An educational task force has been formed to let people know how to avoid infections by washing hands, cleaning athletic equipment, etc.

There was discussion and additional questions from the Commission regarding the symptoms of a staph infection and the current reporting process. Dr. Monroe responded that symptoms are generally small red bumps or swelling with irritation or pain. She commented that outbreaks are required to be reported but that staph infections are very common; there are hundreds of cases each year. She added that the infection does not spread through the air; the risk is with a cut or break in the skin. There were additional questions on methicillin resistance and how an outbreak is defined. The Commission also discussed the testing of all hospital patients for MRSA in an effort to reduce the number of infections. Dr. Monroe commented that hospitals are looking at this option but that surveillance is costly. She added that research is being done on this issue.

*Laurie Fish, BSN, RN, CIC, President, Indiana Chapter of the Association for Professionals in Infection Control*

Ms. Fish reported that the Centers for Disease Control and Prevention (CDC) has released new recommendations to control multi-drug resistant organisms (MDRO). She reported that major local hospitals are participating in a collaborative effort to control MDROs. Meetings are held weekly under the auspices of a Regenstrief Institute Action Grant. Hospitals are screening patients for MDRO on admittance to intensive care units and again when they are discharged from the units. She reported that Association for Professionals in Infection Control and the Indiana Patient Safety Center are launching a statewide collaborative to prevent and control the spread of MDROs in January 2008. This collaborative will include all hospitals and nursing facilities. (See Exhibit # 4.)

Commission questions followed on the length of time necessary to control MDROs in an institutional setting. Ms. Fish explained that two situations are seen: sudden outbreaks and constant, low levels of occurrences that continue to trend upwards over time.

*John Christenson, MD, Professor of Clinical Pediatrics, IU School of Medicine, Riley Hospital*

Dr. Christenson reported that in his infectious disease practice at Riley Hospital he sees many infected boils or bumps. He reported that recurrence is common and that often parents of affected children also are infected. Dr. Christenson reported that athletes acquiring MRSA is a problem, but that it is not a new problem. He agreed with Dr. Monroe that the attention in the press lends itself to a good teaching opportunity with regard to how to prevent the infections.

**PD 3336 - Reporting of MRSA Staph Infections**

Sen. Miller commented that a draft had been prepared to require reporting; she asked if a bill was needed. Dr. Monroe responded that laboratory data is not reported statewide and that there could be some value for a community to know the incidence. She added that the Department already has a rule requiring the reporting of outbreaks. Ms. Naughton, Staff Attorney, pointed out to Sen. Miller that the Department of Health does not have emergency rule-making authority on this issue. A motion was made and seconded to amend PD 3336 to provide for emergency rule-making authority for reporting of MRSA infections. The amendment was approved by consent. A motion was made and seconded to approve the preliminary draft as amended.

The Commission voted 16-0 to approve the amended PD 3336 providing emergency rule-making authority to ISDH for the reporting of MRSA infections.

**Toy Recall and Update on Lead Poisoning Issues**

*Judith Monroe, MD, State Health Commissioner*

Dr. Monroe updated the Commission on the recall of toys containing lead. She reported that the last death attributed to lead poisoning occurred in Minnesota in 2005. She commented with regard to the toy recall that some companies were proactive with regard to the recall, increasing the level of testing on their products; other companies were not so diligent. Dr. Monroe added that while at-risk children are required to be tested, the county health departments increased testing availability and tested many children for blood-lead levels after the toy recall. With regard to testing toys for the presence of lead, she recommended returning the toys rather than using tests that may be of questionable accuracy. She reported that there is already a statute in place prohibiting lead in products intended for children.

Dr. Monroe commented that while the toy recall had brought lead exposure to national attention, the presence of lead in older housing is the main source of children's exposure in Indiana. She reported that $8.2 M has been spent for housing control since 2005. Testing levels have increased by 20% since 2004, and Medicaid testing rates are at 37%. Dr. Monroe reported that elevated blood-lead levels are still being found and that the testing is particularly important since low levels of lead exposure may have no distinctive symptoms.

**PD 3384 - Childhood Lead Poisoning Prevention**

Senator Gard reviewed the development process of PD 3384. (See Exhibit #6.) She gave an overview of the draft for the Commission and commented that Dr. Monroe had reviewed the statistics already. (See Exhibit #7.)

Commission questions followed with regard to the costs of housing remediation for lead hazards and who bears the cost. Sen. Gard explained that in the instance of child care facilities, the facility would be responsible for hiring and paying an inspector. She added that there is nothing in the draft that prevents a landlord from passing the cost of remediation along to a tenant through increased rent. However, she added that tenants avoid the personal cost of lead exposure when housing is remediated. Additional questions involved the sunset date of the advisory committee and whether the advisory committee appointments should include a home inspector. A motion was made and seconded to amend the draft to include a home inspector as a member of the advisory committee. The motion was approved by consent. A motion was made and seconded to approve PD 3384 as amended.

The Commission voted 13-0 to recommend PD 3384 as amended.

**PD 3369 - Cancer Research Check-off on Tax Forms**

*Mary Studley, Indiana Cancer Research Advocacy Community*

Ms. Studley reviewed the importance of research and the prevalence of cancer in the population. She commented that research dollars are investments in the life sciences. She suggested that a checkoff box on the Indiana Individual Income Tax form could be an effective fund raiser for research money. She reported that 41 other states do checkoffs for this purpose and added that if each taxpayer donated $1, the checkoff could raise $3 M annually. Ms. Studley specified that the dollars raised would be applied to research for all types of cancer and not targeted to any specific type. (See Exhibit #8.)

Commission discussion followed with questions directed to staff regarding the potential effect of an additional tax form checkoff on the Indiana Nongame Fund, which is currently the only checkoff available. Ms. Norris, the Commission's fiscal analyst, reported that additional checkoffs could raise dollars for that item, but that donations to the Nongame Fund could potentially be affected. There were questions regarding the possibility of adding other checkoffs on the tax form. A motion was made and seconded for the Commission to approve the proposed draft.

The Commission voted 14-0 to support the inclusion of cancer research as a charitable purpose to which an individual may choose to give all or part of the individual's income tax refund. (See Exhibit #9.) The draft also establishes the Cancer Research Trust Fund under the administration of the Budget Agency.

**Childhood Obesity - Update on Childhood Growth Measurements**

*Judith Monroe, MD, State Health Commissioner*

Dr. Monroe updated the Commission on the voluntary reporting of height and weight measurements of school children started in 2006. She reported that in 2005, 15% of school children self-reported that they were overweight. In 2006, the ISDH analyzed data that was voluntarily collected and reported by school corporations, demonstrating the incidence of overweight for the data collected was 7.6% higher than the self-reported data. Also of concern, the data showed that 2.3% of the K-12 students were underweight. Dr. Monroe stated that the voluntary reporting of student height and weight statistics is an ongoing activity.

Commission questions followed regarding to the adequacy of the voluntarily reported data to determine the incidence of overweight in the state's children. Dr. Monroe responded that the ISDH is working on a state obesity plan and would like to have another year to work with the voluntary reporting program before making a decision on the best strategy to address the problem.

**PD 3388 - Regulated Occupation Complaints**

David Miller, representing the Attorney General's Office, explained that PD 3388 specifies that the only occupation regulated by the State Department of Health that would be subject to the Attorney General's investigative authority is the registration of out-of-state mobile health care entities. He reported that under existing law, the Attorney General would be investigating all Department of Health regulated occupation complaints rather than only the registration of out-of-state mobile healthcare entities. He noted that out-of-state entities are currently required to register, but that there are no disciplinary or enforcement penalties available. (See Exhibit #10.)

Commission questions followed regarding current law and the definition of out-of-state mobile health care entities.

A motion was made and seconded to for the Commission to approve the proposed draft. The Commission voted 14-0 to recommend PD 3388.

**PD 3348 - Smoking in Cars with Children**

Rep. C. Brown gave an overview of the preliminary draft which prohibits smoking in cars while a child under the age of 13 years is in the vehicle. (See Exhibit #11.) The Commission discussed enforcement issues. Rep. Brown explained that the occupant would have to be smoking at the time of a stop for a primary traffic violation. It was noted that the draft did not say the violation was a secondary violation. A motion was made and seconded to amend the language to reflect

that this would be a secondary violation. The amendment was approved by consent. A motion was made and seconded for the Commission to approve the proposed draft.

The Commission voted 10-4 to support the prohibition of smoking in cars with children. The motion failed, lacking a majority of the voting members of the Commission.

**PD 3364 - Smoking in Public Places**

Sen. Miller explained that PD 3364 was modeled after Marion County's smoking ordinance and asked Staff Attorney Casey Kline to explain the contents of the preliminary draft. (See Exhibit #12.) Commission discussion followed with regard to the reason for various exceptions and whether the language allowed for more restrictive local ordinances. Several Commission members expressed concern regarding the exceptions and asked for more specificity. A motion was made and seconded to specify that local ordinances may be more restrictive. The motion to amend the draft was approved by consent.

Another motion was made and seconded to specify that casinos and horse tracks are exempt from the provisions of the draft. The motion to amend the draft was approved by consent.

*Bruce Hetrick*

Mr. Hetrick related how his wife had died of lung cancer, attributed to exposure to secondhand smoke. (See exhibit #13.) He commented that employees have a right to be protected from secondhand smoke in their workplaces. Mr. Hetrick reported that 22 states have passed smoke-free laws that include restaurants and bars. He emphasized that he is in support of a ban on smoking in public places that includes restaurants and bars to safeguard citizens and employees.

A motion was made and seconded for the Commission to recommend PD 3364 as amended. The Commission voted 13-0 to support the smoking ban in certain public places.

**PDoc 1060 - Regulation of Opioid Treatment Programs**

*Cathy Boggs, Director, Division of Mental Health and Addiction (DMHA), FSSA*

Ms. Boggs gave a brief overview of the draft including the change of terminology from methadone treatment to opioid treatment. She reported the document was intended to assist in improving patient safety and the opioid treatment program. (See Exhibit #14.)

Commission discussion followed with regard to the changes in fees that would be allowed to be charged by the Division. Additional discussion was focused on the point that fees assessed for out-of-state residents would be more than those assessed on Indiana residents. Staff Attorney Casey Kline discussed other state fee situations where higher fees are charged to out-of-state residents. A motion was made and seconded to amend the draft to establish the annual per-patient fees at no more than $300 for each out-of-state patient and $20 for each Indiana resident. The motion was approved by consent. A motion was made and seconded to approve Pdoc 1060 as amended.

The Commission voted 13-0 to recommend the draft on the regulation of opioid treatment programs.

**PD 3387 - Umbilical Cord Blood Bank**

Rep. Peggy Welch updated the Commission on the activities undertaken by a group that met to

develop the initiative for a public umbilical cord blood bank in Indiana. She specified that donations of umbilical cord blood are to be used for transplants and research. Rep. Welch added that establishing an umbilical cord blood bank would help the physical health of Hoosiers as well as assisting the economic health of the state by supporting life science initiatives. She gave an overview of PD 3387. (See Exhibit #15.) A motion was made and seconded for the Commission to support the draft.

The Commission voted 14-0 to recommend PD 3387 regarding the umbilical cord blood bank.

**PD 3334 - Dentist Instructor Licenses**

Sen. Miller explained that the bill extends a provision that allows the State Board of Dentistry to issue a dentist instructor's license for individuals not otherwise licensed to practice dentistry in the state until June 30, 2013. Currently, the authority expires June 30, 2008. (See Exhibit #16.) A motion was made and seconded for the Commission to approve the proposed draft.

The Commission voted 14-0 to recommend PD 3334.

**PD 3368 - Study Concerning Domestic Violence**

Jessaca Turner-Stults reviewed the current administrative location of the Domestic Violence Program under the Division of Family Resources and the question of the most appropriate location for this program. Possible alternatives include the Indiana Criminal Justice Institute, the Department of Child Services, or the Housing Authority. Sen. Miller introduced PD 3368 that requires the Health Finance Commission to study the domestic violence programs operated by the state and to determine the most appropriate state agency to operate the programs. (See Exhibit #17.) After discussion regarding why this issue was being brought forward when there had been no testimony during the interim, a motion to support the proposed draft was made and seconded.

The Commission voted 14-0 to recommend PD 3368.

**PD 3298 - Insurance Coverage for Prosthetic Devices**

Sen. Miller asked for a motion on PD 3298, which requires the state employee health benefit plan, a health insurance policy, and an HMO contract to provide certain prosthetic device coverage. The draft would differentiate between the needs of children and adults. (See Exhibit #18.) A motion was made and seconded for the Commission to approve the proposed draft.

The Commission voted 14-0 to recommend PD 3298.

**Concurrent Resolution Asking Congress to Consider Legislation Requiring Adequate Coverage for Prosthetic Devices under ERISA-Controlled Insurance Plans**

Sen. Miller explained the Concurrent Resolution that requests Congress to enact legislation requiring employer group health benefit plans regulated under the federal Employee Retirement Income Security Act (ERISA) to provide certain coverage for prosthetic devises. (See Exhibit #19.) A motion was made and seconded for the Commission to approve the proposed concurrent resolution.

The Commission voted 14-0 to recommend the proposed concurrent resolution.

**Concurrent Resolution Supporting the Location of a Teaching Hospital in Gary**

Sen. Miller asked for the Commission's approval for a concurrent resolution supporting the location of a teaching hospital in Gary. A motion was made and seconded to approve the concurrent resolution supporting the location of a children's hospital, a medical school teaching facility, and a trauma center in the city of Gary. (See Exhibit #20.)

The Commission voted 14-0 to recommend the proposed concurrent resolution.

**PD 3230 - AEDs in Health Clubs**

Sen. Miller gave an overview of the draft and explained that an exception to the requirement for an Automated External Defibrillator (AED) is included for certain health clubs where an emergency response team is located on the same premises. The draft also specifies the fire department responsible for compliance inspections in health clubs. (See Exhibit #21.) There was Commission discussion with regard to the exception. A motion was made and seconded for the Commission to approve the proposed draft.

The Commission voted 14-0 to recommend adding an exception to the requirement that AEDs be located within the premises of health clubs.

**PD 3376 - Increased Criminal Penalty for Birth Certificate Misuse**

Sen. Miller explained that the Department of Health had asked for increased criminal penalties for the fraudulent misuse of a birth certificate. PD 3376 provides for an increase in the penalty for fraudulent misuse of a birth certificate from a Class A misdemeanor to a Class D felony. (See Exhibit #22.) There were Commission questions regarding why the increase in the penalty would be necessary. Rep. Welch described why increasing the penalty might be an advisable action. Sen. Miller asked for a disposition on the bill. No motion was offered.

**Final Report**

Sen. Becker distributed a letter stating that the time to process a child's eligibility for Hoosier Healthwise had gone from an average of 9 days in 2006 to 47 days in June 2007. She asked that the information be included in the final report. (See Exhibit #23.)

Sen. Miller commented that the Eligibility Modernization Project report was on the agenda for the meeting but there was not sufficient time to hear the presentation.

A motion was made and seconded to approve the final report with the inclusion of the actions taken by the Commission and the testimony heard at the meeting of October 29, 2007. The Commission voted 14-0 to approve the draft final report with the specified additions.

The meeting was adjourned at 5:10 PM.